

Australian Capital Territory

# Legal Profession (Solicitors) Conduct Rules 2026

Subordinate law SL2026-6

made under the

Legal Profession Act 2006, s 580 (Rules for solicitors)

## EXPLANATORY STATEMENT

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### Background

The *Legal Profession Act 2006* (ACT) (LPA) empowers the Law Society of the ACT (Law Society) to make Rules for or in relation to practice as a solicitor, as an Australian-registered foreign lawyer and for incorporated legal practices and multi-disciplinary partnerships.

The *Legal Profession (Solicitors) Conduct Rules 2026* replace the *Legal Profession (Solicitors) Conduct Rules 2025 (No 2)*.

The Rules reflect the efforts of the Law Council of Australia (LCA) and its constituent bodies to amend the legal practice rules of each State and Territory in response to ethical and professional responsibility challenges that may arise for solicitors from 1 July 2026 under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth)* (AML/CTF).

As required by the LPA, the Law Society wrote to the ACT Attorney General and sought public comment on the proposal to adopt the revised Rules. Following the conclusion of the public consultation process the Council of the Law Society formally adopted the Rules.

### Purpose

The Rules provide a framework for ethical decision-making to ensure that Australian solicitors are bound by a common set of professional obligations and ethical principles when dealing with their clients, the courts, their fellow legal practitioners and the wider community.

The adoption of the new Rules will ensure that they are consistent with those in other jurisdictions. The new amendments do not create new ethical duties or professional responsibilities for solicitors. They have two objectives. One is to make clear that a

solicitor has a duty to only give effect to client instructions that are, and continue to be, lawful, proper and competent. The other is to clarify that a solicitor has “just cause” to end a retainer if continuing the retainer would cause the solicitor to breach their ethical duties and professional responsibilities, or because the solicitor can no longer act in the client’s best interests, or because the solicitor is not provided with information necessary for the solicitor to meet their statutory obligations.

s585 of the LPA provides that the Rules are binding on legal practitioners to whom they apply. Failure to comply with the Rules can amount to unsatisfactory professional conduct or professional misconduct.

## **Outline of Changes**

### **Key Amendments**

The following Rules in the *Legal Profession (Solicitors) Conduct Rules 2026* contain key amendments to the *Legal Profession (Solicitors) Conduct Rules 2025 (No 2)*:

- Rule 8 – Client Instructions – amended to clarify that a solicitor must only accept and follow a client’s lawful, proper and competent instructions.
- Rule 11.4.1 – Duty of Confidentiality – amended to clarify where a client’s informed consent is required in circumstances where there is a conflict of duties concerning current clients.
- Glossary of Terms – amended to introduce a definition of “Just Cause” and aligning definitions for the following terms with the ASCR: associate, barrister, managed investment scheme, and principal.

### **Minor textual amendments**

There are a number of minor textual amendments to Rules that are otherwise substantively the same.

### **Consistency with Human Rights**

An assessment of the Rules under s28 of the *Human Rights Act 2004* (ACT) is provided below. s28 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society.

#### **Rights Engaged**

##### Rights Promoted

- Right to Recognition and Equality Before the Law (s8)
- Right to Privacy and Reputation (s12)
- Right to a Fair Trial (s21)
- Right to Work and Work-Related Rights (s27B)

##### Rights Limited

- Right to Privacy and Reputation (s12)
- Right to Freedom of Expression (s16)

### ***Rights Promoted***

#### **Right to Recognition and Equality Before the Law**

The Rules promote the right to recognition and equality before the law by reinforcing the ethical framework within which all clients are represented. The clarified requirement that a solicitor must only accept and follow lawful, proper and competent instructions, together with the expanded definition of “just cause” for termination, ensures that legal services are provided consistently with professional standards and the administration of justice. These measures support equal access to legal representation that is lawful, ethical and competent, and reinforce the principle that all clients are subject to the same professional and ethical constraints, irrespective of personal circumstances.

#### **Right to Privacy and Reputation**

The Rules uphold the right to privacy through robust confidentiality obligations (Rule 9) and protections against misuse of inadvertently disclosed information (Rule 31). These provisions ensure that sensitive client information is handled with care and integrity, and that practitioners respect the privacy of individuals in all aspects of legal practice.

#### **Right to a Fair Trial**

The paramount duty to the court and the administration of justice (Rule 3), together with obligations to act honestly, competently, and independently (Rules 4 and 19), directly support the right to a fair trial. These Rules ensure that solicitors contribute to fair and impartial legal proceedings and uphold the integrity of the justice system.

#### **Right to Work and Work-Related Rights**

The Rules promote the right to work and work-related rights by clarifying circumstances in which solicitors must not continue professional engagements that would expose them to ethical, professional or statutory breaches. By recognising “just cause” to terminate a retainer where a solicitor cannot act in a client’s best interests or comply with mandatory obligations, the Rules support lawful and safe professional practice. These provisions help ensure that legal practitioners are not compelled to work in conditions that compromise their professional integrity or expose them to legal or disciplinary risk.

### ***Rights Limited***

#### **Right to Privacy and Reputation**

*Nature of the right and the limitation (s28(2)(a) and (c))*

s12 of the *Human Rights Act 2004* (ACT) protects individuals from unlawful or arbitrary interference with privacy, including the handling of personal and confidential information. The amendments limit this right by expressly acknowledging that solicitors are subject to statutory reporting obligations that may involve the disclosure of confidential client information, and by permitting termination of a retainer where required information has not been provided.

*Legitimate purpose (s28(2)(b))*

The limitation serves the legitimate purposes of ensuring compliance with statutory obligations, preventing serious legal and ethical breaches, and protecting the integrity of the justice system. Mandatory reporting regimes and conflict of interest safeguards are designed to prevent misconduct, promote transparency, and uphold public confidence in legal practice.

*Rational connection between the limitation and the purpose (s28(2)(d))*

There is a clear and rational connection between the limitation and its objective. Permitting disclosure where required by law directly supports compliance with legislative frameworks and prevents misuse of confidential information. These measures ensure that privacy is interfered with only to the extent necessary to meet overriding legal and public interest obligations.

*Proportionality (s28(2)(e))*

The limitation is proportionate. It applies only in defined circumstances and only to the extent required to meet statutory, ethical or professional obligations. The Rules continue to impose strong confidentiality requirements and require solicitors to take appropriate steps to protect client information wherever possible. As such, the limitation represents a measured and targeted approach that constitutes the least restrictive means of achieving the intended purpose.

## **Right to Freedom of Expression**

*Nature of the right and the limitation (ss28(2)(a) and (c))*

s16 of the *Human Rights Act 2004* (ACT) provides that everyone has the right to hold opinions without interference and to seek, receive and impart information and ideas of all kinds. This includes the right to express views publicly, including in the context of legal proceedings.

Rule 28 of the Rules limits this right by restricting public comment during current proceedings. This limitation applies to legal practitioners and is intended to prevent commentary that could prejudice the administration of justice or undermine the fairness of proceedings.

*Legitimate purpose (s28(2)(b))*

The restriction serves the legitimate purpose of protecting the integrity of the judicial process and ensuring the right to a fair trial is upheld. Public commentary by legal practitioners during active proceedings may influence public perception, compromise impartiality, or place undue pressure on parties and the court. The limitation is designed to safeguard the administration of justice and maintain public confidence in the legal system.

*Rational connection between the limitation and the purpose (s28(2)(d))*

There is a clear and rational connection between the limitation and its intended purpose. By prohibiting public comment during proceedings, the Rules reduce the risk of prejudicial statements that could affect the fairness of a trial or the perception of judicial impartiality. This supports the broader objective of ensuring that justice is administered fairly and without external influence.

*Proportionality (s28(2)(e))*

The limitation is proportionate to the objective it seeks to achieve. It applies only in the context of current proceedings and only to legal practitioners, who have a heightened duty to uphold the integrity of the justice system. The restriction does not prevent practitioners from expressing views outside the scope of active matters or engaging in broader legal discourse. As such, the limitation is narrowly tailored and represents the least restrictive means of achieving the intended purpose.